

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE SAINT PAUL CITY COUNCIL

In the Matter of the Auto Body Repair
Garage License held by Steve's Auto
Body St. Paul Inc., dba Steve's Auto Body
St. Paul

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
RECOMMENDATION
AND MEMORANDUM

This matter was heard by Allan W. Klein, Administrative Law Judge, on the morning of July 18, 2000 in the St. Paul City Hall.

Appearing on behalf of the City of Saint Paul and its Office of License, Inspections and Environmental Protection was Virginia D. Palmer, Assistant City Attorney, 400 City Hall, 15 W. Kellogg Boulevard, St. Paul, Minnesota 55102.

Appearing on behalf of Steve's Auto Body St. Paul Inc. was Steve Hakala, 1204 E. 7th Street, St. Paul, Minnesota 55106. Mr. Hakala appeared without benefit of counsel.

The record closed at the end of the hearing on July 18, 2000.

NOTICE

Notice is hereby given that this Report is a recommendation, not a final decision. The Saint Paul City Council will make the final decision after review of the record. The City Council may adopt, reject, or modify these Findings of Fact, Conclusions, and Recommendations. Under Section 310.05(c)(c-1) of the City's Legislative Code, the City Council will provide the applicant the opportunity to present oral or written argument to the City Council before it takes final action. Parties should contact the St. Paul City Council to determine the procedure for filing exceptions or presenting argument to the Council.

STATEMENT OF ISSUE

Has Steve's Auto Body violated the conditions of its license so as to warrant disciplinary action by the City Council?

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. Steve's Auto Body St. Paul is located at 1196 E. 7th Street in St. Paul. It has been in operation there for approximately two and one half years (2 ½) years. It is in the business of auto body repair, primarily the fields of fixing wrecks (both small and large), along with associated work such as rust removal, and painting.

2. The premises at 1196 E. 7th Street are owned by a Roy Berger. He occasionally helps Mr. Hakala, but he is not a partner or an investor in the business. It is anticipated that Mr. Hakala will buy the building from Mr. Berger around the end of the year. Mr. Hakala has been renting the front of the building and the inside of the building from Mr. Berger. The building is small, housing only 5 stalls, one of which is used by Berger.

3. On November 23, 1998, the City Council approved Hakala's license application but imposed conditions upon the license. The condition at issue in this Hearing read as follows:

"There shall be no exterior storage other than the parking of customer/employee vehicles".

4. On September 13, 1999, Senior Inspector Kris Schweinler wrote a letter to Hakala, indicating that he was not in compliance with a number of conditions, including the condition that there be no exterior storage. He was given until September 30, 1999 to comply.

5. On October 28, 1999, the City Attorney's Office issued a notice of violation for failure to comply with license conditions. All of this culminated on January 12, 2000, when the Council passed CF 00-34, imposing a \$500 fine and closure of Steve's for fifteen (15) days with an additional fifteen (15) days stayed so long as the Licensee had no more violations for eighteen (18) months. The property was to be cleaned up within seven (7) days of passage of the resolution. Results of this Council action were formally served on Steve's on January 27, 2000. The business was to be closed between February 2 and February 16, 2000, and the \$500 fine was to be paid by February 11, 2000. The business was, in fact, closed between February 2 and February 16, 2000, and the \$500 fine was paid on February 11, 2000.

6. On February 17, 2000, Inspector Schweinler inspected the facility and took photographs^[1] The photographs show a total of 9 cars or trucks parked in the parking area in front of the building. One of the trucks is a pick-up truck with a tarpaulin over the back box. In the winter, it is used to plow snow. It is also used to store tools

that used to belong to Hakala's father. Behind the building there was an inoperable vehicle and a blue/green tow truck on one side of the back lot.^[2] In the center of the back lot, up against the building, were pieces of scaffolding, one of which had wood stacked on top of it.^[3] On the left side of the back lot are a white car (which appears to have been recently driven),^[4] a utility trailer with material inside of it, and another truck which had not been recently driven.

7. On March 2, 2000, Schweinler returned to view the premises again. The front parking lot was again full. In addition to the 8 cars and trucks there, a chassis (with axles and 4 wheels attached) was sitting between some parked cars and the sidewalk.^[5] In the back, the scaffolding now held even more debris, and the same vehicles, the inoperable car and the blue tow truck, were on the right side of the lot, in the same locations as they had been on February 17. In front of them, and blocking their movement, was now a rusted old (late 1940's?) car whose front panel had been removed exposing the engine. On the left hand side of the back lot, the white car and the other truck appeared to be in the same position they had been on February 17.

8. On March 7, 2000, Schweinler transmitted the pictures from February 17, and March 2, 2000 to the City Attorney's Office. Schweinler noted that Steve's had "cleaned out a great deal" but believed that they were still in violation of the outdoor storage of parts and inoperable vehicles.^[6]

9. On March 17, 2000, Virginia D. Palmer, Assistant City Attorney, informed Mr. Hakala that, despite the fact that he had done "a lot of cleaning up", there were still violations of conditions related to no outdoor storage. She informed Hakala that it was extremely important that this problem be remedied immediately, or else the City would have no option but to again recommend adverse action against his license.

10. On March 23, 2000, Inspector Schweinler again visited the premises. There is no evidence with regard to the condition of the front of the lot, but in the back of the lot, there had been no change. A photograph^[7] taken on March 23 demonstrates the inoperable car^[8] and the truck on the right side of the lot, blocked in by the blue car. The scaffold and the wood debris are still present.

11. On April 4, 2000, Inspector Schweinler informed the City Attorney's Office that Hakala was still not in compliance with the conditions of his license, based on the March 23 inspection, and that she had told a Leroy Bobick (who she spoke with on March 23, and who claimed to be a partner of Hakala's) that there could be no outdoor

storage of anything and no parts being stored in inoperable vehicles, and that they were not in compliance and she would be out again to check on their progress.^[9] On April 28th, Schweinler again re-inspected the premises, and determined that they were still not in compliance. She noted “junked cars and parts in front and back.”^[10]

12. On May 17, the City Attorney notified Hakala that LIEP had recommended adverse action against the license based upon the violation of the license condition that there be no exterior storage on the property other than the parking of customer and/or employee vehicles.^[11]

13. On May 24, Hakala responded, indicating that all of the vehicles stored on the premises were either customer or employee vehicles. Hakala indicated that the truck and one car belonged to the owner of the property, Roy Berger, and are licensed to that address. He went on to explain:

It is virtually impossible for a building this small to store all parts for damaged vehicles inside all day long while working on such vehicles. We have Senior Inspectors go by many times. They always come by during the day, when we are or had been working on vehicles outside. We have a guy who comes by once a week to pick up junk parts. The parking lots have been cleaned and free of any junk parts many times.^[12]

14. Following some other procedural correspondence, a Notice of and Hearing was issued on June 22, setting a hearing for July 18, 2000. The Hearing took place on that date.

15. On July 13, 2000, Inspector Schweinler returned to the property one last time. She took no photos of the front of the property, but did take photos of the back area. On the right hand side of the back area, the inoperable car with the flat tire is gone, but the tow truck is still evident. Between the tow truck and the back of the property was a washer and dryer. In the center of the back area was a 55 gallon drum with debris in it, plus approximately 12 tires. Some of the tires were piled on top of each other, but others were lying around at random. There was a bright blue plastic one-quart oil container (or similar plastic container) inside one of the tires, and there were strips of insulation (or perhaps brake lining) lying in the lot. On the left side of the lot was a large white piece of sheet metal, and other unidentified debris.

16. At the time of the March visit and at the time of the July visit, there was a large (approximately 4 x 6 foot square) piece of white sheet metal stored outside the building, in the back. This sheet metal was a part which was to be used in the restoration of the trunk of the white car.

17. LIEP is recommending that the Council suspend the license for an additional 30 days, lift the stay of imposition on the 15 days still pending from the first Council action, and impose a fine of \$1,000. LIEP believe that imposing this increase penalty on Hakala is necessary in order to "get his attention" and get him to take whatever actions are necessary to stay within the condition of his license.

18. When the City issued the Notice of Hearing on June 23, 2000, it sent a copy to John Vaughn, the Community Organizer for District #4 Community Council (Dayton's Bluff). On July 12, 2000, the Administrative Law Judge received a letter from Mr. Vaughn on behalf of the Community Council's Board of Directors. The letter sets forth the history of conditions, suspension and fine. It concludes with a recommendation that the facility be permanently closed.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The St. Paul City Council and the Administrative Law Judge have jurisdiction in this matter pursuant to Section 310.05 of the St. Paul Legislative Code and Minn. Stat. § 14.55 (1998).

2. The City has given proper notice of the hearing in this matter and has fulfilled all relevant, substantive and procedural requirements of law or rule.

3. The City bears the burden of proving, by a preponderance of the evidence, that adverse action is warranted with respect to the Licensee's Auto Repair Garage License.

4. Chapter 310 of the St. Paul Legislative Code contains general provisions relating to licenses issued by the City. Section 310.06(b)(5) provides that adverse action may be taken when "[t]he licensee or applicant has failed to comply with any condition set forth in the license, or set forth in the resolution granting or renewing the license." Adverse action is defined in Section 310.01 to include fines, imposition of conditions, suspensions of a license, or revocation of a license.

5. The City demonstrated, by a preponderance of the evidence, that the licensee failed to comply with the conditions set forth in Council File #00-34, as amended. Specifically, the City showed that the Licensee stored wood, parts, inoperable vehicles, trash and other debris on the exterior of the property.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

The Administrative Law Judge HEREBY RESPECTFULLY RECOMMENDS that the Council takes **ADVERSE** action against the License of Steve's Auto Body St. Paul, Inc., d/b/a Steve's Auto Body.

Dated this _____ day of August 2000.

ALLAN W. KLEIN
Administrative Law Judge

Reported: Taped

MEMORANDUM

The real problem here is that Mr. Hakala needs much more space for his style of operation. He needs to either move to a larger building, rent additional storage space elsewhere, enlarge the building, or build a storage shed. Such actions are needed to comply with the City Council's conditions. The amount of space inside the building is simply inadequate, and the solution used to date, to store things outside the building, is exactly what the City Council was trying to avoid. Although Mr. Hakala has improved the condition of the property significantly over the past few months, it would appear that some sort of major change is necessary if he is going to comply with the Council's conditions and continue in business.

^[1] Photographs are in evidence as City's Exhibit 6A-6F.

^[2] This tow truck belongs to Mr. Berger.

^[3] The scaffolding and the wood belong to Mr. Berger.

^[4] This white car is a customer's car which came in for repairs, some money was paid and some work done, but the work stopped until more money was paid. It was finally removed in mid-June.

[5] This chassis was part of a restoration job. The body of the car was taken off of the chassis and was being worked on inside the building. The chassis was left outside for about one month.

[6] Exhibit 5.

[7] Attached to City Exhibit 9.

[8] This car, which has been present in all of the photographs, has a flat tire which has been flat from February 17 to at least March 23.

[9] Exhibit 9.

[10] Exhibit 10.

[11] Exhibit 11.

[12] City Exhibit 12.